

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BODUM USA, INC.)	
)	
Plaintiff,)	Case No. 1:16-cv-02916
)	
v.)	Judge Matthew F. Kennelly
)	
A TOP NEW CASTING, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

**A TOP NEW CASTING, INC.'S MOTION TO EXCLUDE THE EXPERT TESTIMONY
AND EVIDENCE OF RHONDA HARPER REGARDING LIKELIHOOD OF
CONFUSION, FOR SUMMARY JUDGMENT OF NO LIKELIHOOD OF CONFUSION,
AND FOR SUMMARY JUDGMENT OF NO SECONDARY MEANING**

Defendant A Top New Casting, Inc. ("A Top") hereby moves this Court for the following:

- (1) To exclude the expert testimony of Bodum USA, Inc's ("Bodum") witness Rhonda Harper regarding likelihood of confusion. Ms. Harper's testimony is inadmissible under Federal Rule of Evidence 702 because it is unreliable, irrelevant, and will not help the trier of fact to understand the evidence or determine a fact at issue in the above-captioned matter;
- (2) For summary judgment of no likelihood of confusion between Bodum's asserted trade dress and A Top's accused product. There are no genuine disputes of material fact, and A Top is entitled to judgment as a matter of law;
- (3) For summary judgment that Bodum's asserted trade dress has not acquired secondary meaning. There are no genuine disputes of material fact, and A Top is entitled to judgment as a matter of law; and
- (4) To dismiss this case with prejudice.

A Top respectfully requests that this Court grant A Top's motion in its entirety, which will be dispositive as to all of the pending claims in this case.

Dated: September 25, 2017

Respectfully submitted

By: /s/ Thomas G. Pasternak

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Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2017, the foregoing **A TOP NEW CASTING, INC.'S MOTION TO EXCLUDE THE EXPERT TESTIMONY AND EVIDENCE OF RHONDA HARPER REGARDING LIKELIHOOD OF CONFUSION, FOR SUMMARY JUDGMENT OF NO LIKELIHOOD OF CONFUSION, AND FOR SUMMARY JUDGMENT OF NO SECONDARY MEANING** was filed with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

/s/ Thomas G. Pasternak

Thomas G. Pasternak